

# Testimony By Mr. Jim Dickson

Vice President of Government Affairs

American Association of People with Disabilities

Congressmen and

Congresswomen of the Committee, good morning and thank you for allowing me to testify this morning on the very important issues of voter verification and paper trails. My name is Jim Dickson. I am Vice President of Government Affairs at the American Association of People with Disabilities (AAPD). AAPD was founded in 1995 after five key leaders from the disability community (who were instrumental in drafting, advocating for and passage of the landmark civil rights law, the Americans with Disabilities Act -ADA) met to organize what they believed would be the next logical step for people with disabilities -- creation of a national, non-partisan organization that can and will represent 54 million Americans with disabilities; an organization which will be a positive private-sector force to achieve the goal of full inclusion in American society - The American Association of People with Disabilities (AAPD).

AAPD was founded by these five key disability rights activists and leaders: Justin Dart, former Chair of the President's Committee; Dr. Sylvia Walker of Howard University; Paul Hearne, President of The Dole Foundation; John D. Kemp, President & CEO, Very Special Arts; and I. King Jordan, President of Gallaudet University.

With a membership of 100,000 AAPD's purpose is:

1. To further the productivity, independence, full citizenship, and total integration of people with disabilities into all aspects of society and the natural environment;
2. To foster leadership among people with disabilities;
3. To support the full implementation and enforcement of disability nondiscrimination laws, particularly the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973;
4. To conduct programs to enhance the lives of people with disabilities, including programs to reduce poverty and unemployment, to assure that every disabled person has the right to his or her own living arrangement, and to assure that every child or adult with a disability has access to and funding for assistive technology.

5. To educate the public and government policy makers regarding issues affecting people with disabilities; and

6. To engage in such other activities as may be desirable or required to accomplish the foregoing objects and purposes, not without the scope of Article third and Article Sixth hereof.

As well as recognizing the need for a unified membership organization representing American citizens with disabilities working together for common goals, there is a genuine need for basic benefits - such as insurances - life, health, automobile, disability - often unaffordable or denied and unavailable to most people with disabilities.

I am the Vice President of Government Affairs and the Director of AAPD's Disability Vote Project. In a variety of capacities, I have 24 years experience on voter's issues and I have served on US Election Commissions and their Board of Advisors.

The US Census reports that there are 10 million Americans whose vision interferes with their ability to read print. There are millions more who cannot read print because their disability prevents them from handling paper. There are thousands of brave and dedicated Americans who have recently been disabled by defending this country. All of us want to thank Congress for passing the Help Americans Vote Act (HAVA). For the first time, because of this Act, millions of us have experienced the awesome wonder that comes with casting a secret ballot. I've been voting for 39 years. The last two elections are the only elections where I have cast a secret ballot. Prior to the passage of HAVA, millions of us have had to trust others to mark our ballot. I want to report to you some experiences in the polling place which happened to me. Keep in mind that these type of experiences have happened to millions of our fellow citizens.

My wife and I made history when we became the first married couple to disagree on who to vote for. As she marked my ballot she said, "Vote Jim. I know you love me now. I know you trust me because you think I'm marking this ballot for that idiot."

The very first time I voted, a poll worker assisted. When I told her my choice for President she said, "YOU want to vote for WHO?" She said this loud enough for everyone in the polling place to hear. On another occasion a poll worker was assisting me and she said, referring to state legislative races, "Nobody votes for these people, so let's stop here." On another occasion a poll worker said to me, "the referenda are confusing and

long so it's alright if I don't read them to you, okay?" On a different occasion I had a poll worker say to me, "the print on these referenda is too small for me to see." - a comment that did not get much sympathy from me.

Other AAPD members have written to me about their joy in voting independently for the first time. One wrote, "I always thought I was an American citizen. The day I cast my first secret ballot, I knew that I am an American citizen." Another member wrote that, "Isn't voting independently what my dear America is about? Isn't that what equality is intended to be?" This member then went on to write, "If you want to make my day, just ask me who I voted for."

AAPD has developed a statement of Principles on Accessible Voting. It reads:

"Full participation in American society must include full access to voting in all its aspects, on an equal and independent basis. Election Day is one day when every American is free and must be equal. Election Day is one day when every American is measured by their willing participation in American democracy.

Individuals with disabilities must be able to participate fully and equally in American democracy.

AAPD supports voting systems that are accessible, secure, accurate and re-countable.

#### The Help America

Vote Act (HAVA) requires that voting systems be accessible to voters with disabilities "in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters." (HAVA, section 301(a)(3)(a)).

This section of the law encapsulates AAPD's position regarding accessible voting. Voting access applies to the entire voting system. A voting system provides these distinct and equally important processes: making one's selections, verifying one's selections, and casting one's vote.

Voters with disabilities must be able to do each part, privately and

independently.

HAVA mandates that the requirement for private and independent voting must be met by January 1, 2006, through the use of one direct recording electronic (DRE) voting system or other device at each polling place. A DRE is a computerized voting device often called a touchscreen. Congress has set the date for compliance as January 1, 2006, and the US Attorney General does not have the legal authority to extend this deadline. Jurisdictions must meet this deadline. Election officials, voting machine manufacturers and others have known of this deadline for almost three years. The United States Department of Justice has repeatedly pointed this out both in writing and in presentations before numerous conferences of election officials.

Independent testing authorities have tested DREs against federally-issued standards. Jurisdictions must purchase voting systems, at least one per polling place, that provide independent and private voting that includes all three steps in the voting process: making one's selections, verifying one's selections, and casting one's vote.

AAPD will work to ensure that HAVA's accessibility requirements are implemented in a timely manner in jurisdictions across the US."

Unfortunately half the country has missed the law's implementation of January 1, 2006 deadline. In Elections Data Services, a report commissioned by the EAC, states that in this November's election 39% of voters will be voting on accessible voting equipment. This represents 34% of the nation's voting jurisdictions. The rest of the country has either not purchased accessible voting equipment or purchased or leased equipment which claims to be accessible but which compared to other products denies a secret ballot to millions of Americans. The counties that have failed to meet HAVA's implementation deadline all use as an excuse the supposed need for a voter verified paper trail. The clamor for a paper trail actually comes from a very loud and very small segment of the country.

Over the past few years there have been several public opinion polls asking Americans of voting age if they have confidence that their vote will be counted on a touchscreen voting system. These polls have been commissioned by news media, independent investigators and election officials. In every survey that I am aware of, in the neighborhood of 80% of Americans have confidence and trust in touchscreen voting.[1]

This summer a poll commissioned by the Election Science Institute[2] again reports that roughly 80% of Americans trust touchscreen voting to accurately count their vote.

You have heard that more than 25 states have passed legislation requiring a paper trail. Looking at the details of that legislation, nearly half of the states have legislation where the paper trail is not the ballot of record. This is for very good reasons. We have a long and painful history in our country of fraud and manipulation on counting paper ballots.

A paper ballot including a paper trail is not accessible. Millions of Americans cannot read it or handle it. Advocates for paper trails claim that there are paper trail systems that are accessible. These advocates have expertise in computers, not disability. They claim that so-called ballot marking devices are accessible. There are 2005 voting system guidelines issued by the EAC that require if there is to be a paper trail on touchscreen, the paper trail must be accessible. Such a machine does not exist and such a machine has not been certified by the EAC. When and if such a machine exists and there is federal funds to pay for them, the inaccessible problems with the paper trail would go away. It is a very large IF there will be federal funds and the paper trail advocates conveniently ignore the time it will take to develop, test, certify and deploy an accessible paper trail. Let's look at the underlying assumptions regarding the desirability of paper ballots. Recently there was an attempt to count the paper trail ballots from Cleveland's May primary. Ten percent of ballots were not countable.[3] Thank god it was not a close election and that there was no need for a re-count. Under Ohio law the paper is the ballot and given that misguided law, the 10% of citizens whose votes were recorded on touchscreen would not have their votes counted in a re-count.

There is a false assumption that huge numbers of paper ballots can be accurately re-counted. Accurate paper ballot recounts can be done but only on counting in the tens of thousands. In an MIT experiment[4] for every 10,000 ballots counted, there are 3 errors. In the 2004 governor's race in Washington State, 1.98 million votes were on paper. The paper was re-counted three times. Each time it was counted there were different totals. Re-counts of paper ballots in very close elections always result in doubt as to who won, accusations of fraud and manipulation. How does changing the result of a re-count build confidence and trust in our elections?

Voters including voters with disability have the right to verify their ballot. It turns out that verifying on a piece of paper does not happen. Most voters do not look. In an experiment at MIT, visual verification of a paper ballot was compared to audio verification of a ballot. The experiment was set up so that the touchscreen actually changed the vote on the paper from the voter's intent. MIT undergraduate and graduate students participated in this study. Even when the paper trail printed a changed vote, a significant number of the students did not observe change. When the verification was done with earphones, a significantly greater number of students found the changed vote.[5]

To summarize, voter verified paper trails attached to accessible touchscreens are not accessible and it will be years before such projects can legally be purchased - assuming that there will be hundreds of millions of dollars to buy them. In the real world of human beings voting, paper trails verification is a Rub Goldberg contraption. In close elections with millions of paper ballots it is impossible to know for certain who won. Voters do not verify, voters don't use it, and large numbers of voters will fail should there be a security attack. Most voters will not recognize the change on the paper ballot. Before the Congress requires a verification system, we need to be certain that the verification system allows for accurate recounts, will be used by voters and that the verification system is accessible. Before Congress requires that something be placed into the sanctity of the voting booth, Congress should support a rigorous testing.

Thank you for allowing me to testify this morning.

[1] University of Maryland Baltimore  
County, National Center  
for the Study of Elections of the Maryland Institute for Policy Analysis &  
Research. "Maryland  
Registered Voters' Opinions About Voting and Voting Technologies".  
February 2006.

[2] Election Science  
Institute. "DRE Analysis for May 2006 Primary Cuyahoga County, Ohio".  
August 2006.

[3] Ibid.

[4] Ted Selker and  
Sharon Cohen. Caltech/MIT Voting Technology Project. "An Active  
Approach to Voting Verification". VTP Working Paper #28. May 2005.

[5] Ibid.